

The Honorable John C. Cougenhour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES B. EDWARDSON,)
vs.)
CALIBER HOME LOANS, NATHAN F. SMITH,)
MITZI JOHANKNECHT, HUGO ESPORZA,)
Plaintiff,) No. 2:19-cv-00888-JCC
Defendants.)
) DEFENDANTS JOHANKNECHT'S
) AND ESPARZA'S MOTION TO
) DISMISS
)
) Noted for: July 12, 2019
)

I. INTRODUCTION AND RELIEF REQUESTED

This is a pro-se-inmate U.S.C §1983 case, involving an allegation that King County Sheriff and Detective Hugo Esparza posted a notice at plaintiff's residence and proceeded with a sale after foreclosure. In accordance with Civil Rule 12(b)(6), Defendants Mitzi Johanknecht and Hugo Esparza respectfully request that this Court dismiss this case because the Plaintiff fails to State a Claim under which relief can be granted. This motion is based upon the authorities set forth below and the records and files herein. A proposed form of order accompanies this motion.

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II. FACTS

Because Defendants Johanknecht and Esparza bring this pre-answer motion under Rule 12(b)(6), they rely only on matters that are stated in the pleadings or are otherwise in the public record. In addition to the pleadings, Defendants Johanknecht and Esparza rely on King County Superior Court Cause number 14-2-28046-7 KNT, and respectfully requests that the Court take judicial notice of the same.

A. Plaintiff's Allegations

Plaintiff alleges that Defendants Johanknecht and Esparza conspired with Caliber Home Loans to sell his house without notice. Complaint ¶ 3.16. There are no facts supporting this conclusory allegation. Plaintiff alleges that Defendant Johanknecht and Esparza posted notice of the sale on Plaintiff's door. Complaint ¶ 3.18. This is confirmed by Plaintiff's brother, who provided notice to the plaintiff. 14-2-28046-7, Dkt 122 (Ex.A). The defendants proceeded with the sale. Complaint ¶ 3.20.

B. Facts Subject to Judicial Notice

Defendants Johanknecht and Esparza adopt the facts set out in Defendant Caliber Home Loans Motion to Dismiss (Dkt 6).

Plaintiff moved to set aside the default proceeding in King County Superior Court. 14-2-28046-7, Dkt 92 (Ex. B) and Dkt 109 (Ex. C). That motion was first denied on March 21, 2019, 14-2-28046-7, Dkt 113 (Ex. D), and then on May 30, 2019, 14-2-28046-7, Dkt 124 (Ex. E).

III. ARGUMENT

A. Rule 12(b)(6) Standard

A motion to dismiss pursuant to Rule 12(b)(6) tests the legal sufficiency of a party's claim. *Navarro v. Block*, 250 F.3d 720, 732 (9th Cir. 2001). Because the focus of a Rule

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1 12(b)(6) motion is on the legal sufficiency, rather than the substantive merits of a claim, the court
2 ordinarily limits its review to the face of the complaint. *See Van Buskirk v. Cable News*
3 *Network, Inc.*, 284 F.3d 977, 980 (9th Cir.2002). Although generally the Court may not
4 consider materials beyond the pleadings without converting a 12(b)(6) motion into a motion for
5 summary judgment, there are two exceptions to this rule. *See Fed.R.Civ.P. 12(b)(6); Lee v. City*
6 *of Los Angeles*, 250 F.3d 668, 688–89 (9th Cir. 2001). First, the Court can consider “material
7 which is properly submitted as part of the complaint”. *Lee v. City of Los Angeles*, 250 F.3d 668,
8 688–89 (9th Cir. 2001). Second, the Court can “take judicial notice of court filings and other
9 matters of public record, especially when the court pleadings reflect prior litigation involving the
10 same party.” *Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006).

11 On a Rule 12(b)(6) motion, all allegations of material fact in the complaint are taken as
12 true and are construed in the light most favorable to the nonmoving party. *See Jenkins v.*
13 *McKeithen*, 395 U.S. 411, 421, 89 S.Ct. 1843, 23 L.Ed.2d 404 (1969); *Love v. United States*, 915
14 F.2d 1242, 1245 (9th Cir.1989). A complaint should be allowed to proceed “unless it appears
15 beyond doubt that the plaintiff can prove no set of facts in support of his claim which would
16 entitle him to relief.” *Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir.1990)
17 (quoting *Conley v. Gibson*, 255 U.S. 41, 45-46 (1957)). Dismissal may be based on the lack of a
18 cognizable legal theory or the absence of sufficient facts supporting a cognizable legal theory.
19 *Balistreri*, 901 F.2d at 699. “To survive a motion to dismiss, a complaint must contain sufficient
20 factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft*
21 *v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570
22 (2007)); *see Telesaurus VPC, LLC v. Power*, 623 F.3d 998, 1003 (9th Cir.2010).

23 **B. Injunctive Relief is Inappropriate.**

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1 Edwardson has properly moved in King County Superior Court to set aside the judgment.
2 14-2-28046-7, Dkt 122 (Ex.A). Edwardson's purpose for this lawsuit is, *inter alia*, to obtain "an
3 Order to Cease and Desist all Sales Activities of the the [sic] Plaintiff's Property" and for
4 Defendants to "appear and show cause why it failed to properly serve Plaintiff..." Complaint ¶¶
5 4.4-4.5. "The Rooker–Feldman doctrine is a well-established jurisdictional rule prohibiting
6 federal courts, from exercising appellate review over final state court judgments." *Reusser v.*
7 *Wachovia Bank, N.A.*, 525 F.3d 855, 858–59 (9th Cir. 2008). The doctrine prevents federal
8 courts "from exercising subject matter jurisdiction over a suit that is a *de facto* appeal from a
9 state court judgment." *Id.* (internal quotation omitted). An action brought in federal district court
10 is an appeal of a state court judgment if "claims raised in the federal court action are inextricably
11 intertwined with a state court's decision such that adjudication of the federal claims would
12 undercut the state ruling or require the district court to interpret the application of state laws or
13 procedural rules." *Id.* (internal quotation omitted).

14 Here, the state court authorized foreclosure of the Plaintiff's property. By seeking an
15 order preventing defendants from taking action against the property, Edwardson is asking this
16 Court to render "a *de facto* appeal from a state court decision." This Court lacks the subject
17 matter jurisdiction to proceed, and an order to dismiss should be granted.

18 **C. Because Injunctive Relief is Inappropriate, and Defendants Johanknecht and
19 Esparza Are Acting As An Arm Of The Court, Plaintiffs' Lawsuit Is Barred
20 By Quasi-Judicial Immunity**

21 It is well-established that officers executing a facially valid court orders are entitled to
22 absolute immunity for their actions. "When 42 U.S.C. §1983 was enacted in 1871, the common
23 law provided absolute immunity to government officials in their execution of facially valid

1 judicial orders entered by a court of competent jurisdiction.” *Mays v. Sudderth*, 97 F.3d 107, 112
2 (5th Cir. 1996).

3 The Ninth Circuit recognizes absolute immunity for such officials. In *Coverdell v. Dep’t*
4 *of Soc. & Health Servs., State of Wash.*, 834 F.2d 758, 765 (9th Cir. 1987), the Ninth Circuit
5 determined that persons who faithfully execute valid court orders enjoy “absolute quasi-judicial
6 immunity for executing that order.” *See also Engebretson v. Mahoney*, 724 F.3d 1034, 1039 (9th
7 Cir. 2013)(holding that “prison officials charged with executing facially valid court orders enjoy
8 absolute immunity from §1983 liability for conduct prescribed by those orders.”).

9 Officers that “execute court orders . . . are themselves integral parts of the judicial
10 process.” *Coverdell*, 834 F.2d at 765. Quasi-judicial immunity for such officials is necessary “if
11 the court’s authority and ability to function are to remain uncompromised.” *Id.*

12 Judicial immunity extends to a Sheriff’s actions in enforcing the judgments of the
13 Superior Court through Writs of Restitution and other similar orders. In *Henry v. Farmer City*
14 *State Bank*, 808 F.2d 1228, 1238 (7th Cir. 1986) – which was cited by the Ninth Circuit with
15 approval in *Coverdell*, 834 F.2d at 764 – the Seventh Circuit Court explained that
16 Non-judicial officials whose official duties have an integral relationship with the judicial process
17 are entitled to absolute immunity for their quasi-judicial conduct. *Ashbrook v. Hoffman*, 617 F.2d
18 474, 476 (7th Cir.1980). Although immunity is normally extended to those performing
19 discretionary and not ministerial acts, “those performing ministerial acts under a judge’s
20 supervision and intimately related to judicial proceedings have quasi-judicial immunity.” *Id.* at
21 477 n. 4; see *Waits v. McGowan*, 516 F.2d 203, 206 (3d Cir.1975) (official entitled to absolute
22 immunity afforded judge if “he is performing a ministerial function at the direction of the
23 judge”); *Duba v. McIntyre*, 501 F.2d 590, 592 (8th Cir.1974) (quasi-judicial absolute immunity

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1 extended to police and other court officers “for purely ministerial acts where they do nothing
2 other than perform orders issuing from a court”).

3 A similar fact pattern led to the same conclusion in *Hirsch v. Copenhaver*, 839 F. Supp.
4 1524, 1531 (D. Wyo. 1993), *aff'd*, 46 F.3d 1151 (10th Cir. 1995). There, the sheriff was sued in
5 his individual and official capacity for executing an order for a tax sale of plaintiff's property. In
6 granting defendant's motion to dismiss under Fed. R. Civ. P. 12(b)(6), the District Court held
7 that:

8 It is also this Court's opinion that the allegations against defendants [Sheriff] Brewer,
9 [Undersheriff] Coorough and [Court Clerk] Cheney are not sufficient and must be
dismissed. *Actions taken under the direction of a state court judge as officials responsible*
for enforcing their orders entitle them to the protective cloak of immunity as well. This is
based upon a recognition that the power to execute judicial decrees is “no less an
important and integral part of the judicial process than the roles of those officials
previously afforded absolute immunity.” *Valdez v. City and County of Denver*, 878 F.2d
1285, 1287–1288 (10th Cir.1989). This holding is consistent with cases . . . among the
12 circuits agreeing that “court officers sworn to execute court orders are shielded by
absolute immunity in the performance of their duty.” *Id.* at 1288.

13
14 839 F. Supp. at 1531 (emphasis added).

15 In short, consistent with *Coverdell*, 834 F.2d 758, and other cases, this Court should hold
16 that Sheriff Johanknecht and Detective Esparza's actions in executing a facially valid order are
17 immune from suit. Accordingly, the case should be dismissed against these defendants.

18 **IV. CONCLUSION**

19 Defendants respectfully request that this Court dismiss Mr. Edwardson's lawsuit against
20 Defendants Johanknecht and Detective Esparza in its entirety, with prejudice, because he fails to
21 state a claim under which relief can be granted.

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1 DATED this 18th day of June, 2019.
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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on June 18, 2019, I electronically filed the foregoing document(s) with the Clerk of the Court using the CM/ECF E-Filing system, which will send a copy of the same to the following:

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I also certify that I sent a copy of the same via USPS mail to the following non CM/ECF E-filing participant:

**James Edwardson, DOC #753363
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I declare under penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct.

DATED this 18th day of June, 2019.

Lindsey Macalalad
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